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8 CHURCH OF SCIENTOLOGY  
INTERNATIONAL

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**MAR 03 1993**  
**HUB LAW OFFICES**

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 FOR THE COUNTY OF LOS ANGELES

12 CHURCH OF SCIENTOLOGY	)	CASE NO. BC 052395
13 INTERNATIONAL, a California not-for-profit	)	PLAINTIFF'S NOTICE OF MOTION
14 religious corporation,	)	AND MOTION FOR SUMMARY
	)	ADJUDICATION OF THE
15	)	TWELFTH CAUSE OF ACTION OF
16 Plaintiff,	)	PLAINTIFF'S COMPLAINT;
	)	MEMORANDUM OF POINTS AND
17 vs.	)	AUTHORITIES IN SUPPORT
	)	THEREOF
	)	
18	)	DATE: March 31, 1993
	)	TIME: 8:30 a.m.
19 GERALD ARMSTRONG; DOES 1 through	)	DEPT: 30
20 25, inclusive,	)	
	)	
21 Defendants.	)	DISC.CUT-OFF: Apr. 2, 1993
	)	MTN CUT-OFF: Apr. 19, 1993
	)	TRIAL DATE: May 3, 1993

23 PLEASE TAKE NOTICE that on March 31, 1993, at 8:30 a.m., or as soon  
24 thereafter as may be heard in Department 30 of the above-entitled Court located at  
25 111 North Hill Street, Los Angeles, California, plaintiff Church of Scientology  
26 International ("the Church") will move this Court to issue an order granting  
27 summary adjudication of plaintiff's Twelfth Cause of Action (for permanent  
28 injunction for breach of contract) in favor of the Church, pursuant to California

1 Code of Civil Procedure Section 437c. This Motion is made on the grounds that  
2 there is no triable issue of any material fact relevant to plaintiff's claim for  
3 injunction relief, and that the Church is entitled to judgment on the Twelfth Cause  
4 of Action as a matter of law.

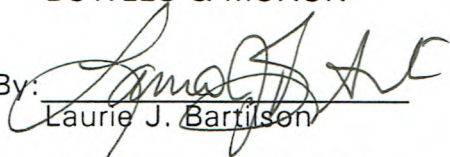
5 This Motion is based on this Notice of Motion and Motion, the pleadings,  
6 records and files herein, the accompanying Memorandum of Points and Authorities,  
7 the declarations and exhibits filed herewith, the accompanying Separate Statement  
8 of Undisputed Material Facts, and such other evidence as may be adduced properly  
9 at the hearing of this Motion.

10 Dated: March 2, 1993

Respectfully submitted,

11 Andrew H. Wilson  
12 WILSON, RYAN & CAMPILONGO

13 BOWLES & MOXON

14 By:   
15 Laurie J. Bartilson

16 Attorneys for Plaintiff  
17 CHURCH OF SCIENTOLOGY  
18 INTERNATIONAL  
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1 **I. PRELIMINARY STATEMENT**

2 In December, 1986, plaintiff Church of Scientology International ("the  
3 Church" or "plaintiff") sought to end bitter and protracted litigation with former  
4 Church staff member Gerald Armstrong ("Armstrong" or "defendant"). Armstrong  
5 had been expelled from the Scientology religion after stealing confidential  
6 documents belonging to the religion's Founder, L. Ron Hubbard. He later embarked  
7 upon a campaign of activities, both overt and covert, intended to: divide Church  
8 members from the ecclesiastical leaders of the Church; forge incriminating  
9 documents and plant them in Church files in advance of an orchestrated raid on  
10 Church facilities coordinated by Armstrong and government agents to "discover"  
11 and seize the forged documents planted in Church files; and, get Church members  
12 to disaffect and file lawsuits against the Church on the basis of naked allegations  
13 unsupportable by any evidence. In Armstrong's own words, "we don't have to  
14 prove a goddamn thing. We don't have to prove s--t; we just have to allege it."  
15 [Amended Complaint, ¶¶ 10, 12]

16 Armstrong's lengthy campaign was ended, or so plaintiff thought, when he  
17 entered into a confidential Settlement Agreement (the "Agreement") with plaintiff  
18 in 1986. [Sep.St. No. 1] The terms of the Agreement required Armstrong not  
19 merely to end his own litigation against plaintiff, but among other things, it also  
20 required Armstrong to refrain from aiding others in litigation, to return to the  
21 Church the documents which he had stolen and all copies of them, to refrain from  
22 discussing with third parties his experiences with the Scientology faith, and to  
23 keep confidential all terms of the Agreement itself. In exchange for his promises,  
24 Armstrong admittedly received \$800,000 from the Church. [Sep.St.Nos. 12-14]

25 The Church has fully performed all of its obligations pursuant to the  
26 Agreement. The facts are undisputed, however, that Armstrong has breached the  
27 Agreement repeatedly and deliberately. Because of these breaches, a preliminary  
28 injunction was issued by the Court on May 28, 1992. Rather than complying with



1 that injunction, Armstrong defiantly proclaimed under oath that he will not be  
2 compelled to comply with the terms of the Agreement by anyone, saying:

3 I have absolutely no intention of honoring that settlement  
4 agreement. I cannot. I cannot logically. I cannot ethically. I cannot  
5 morally. I cannot psychically. I cannot philosophically. I cannot  
6 honor it.

6 Q. No matter what a court says?

7 A. No court could order it. They're going to have to kill me.

8 [Sep.St.No. 20]

9 True to his word, Armstrong has continued to violate the terms of the  
10 Agreement and the preliminary injunction. To prevent a multiplicity of future  
11 actions for breach, and to prevent the irreparable harm that inevitably results from  
12 the sort of fanatical defiance which Armstrong exhibits, the Church seeks a  
13 permanent injunction by this motion.

14 With no facts in dispute, interpretation of the meaning and effect of the  
15 contractual provisions which support the Church's request for a permanent  
16 injunction enforcing the contract is a matter of law for the Court, and judgment on  
17 the Twelfth Cause of Action should be entered in the Church's favor on this  
18 motion for summary adjudication.

19 **II. STATEMENT OF FACTS**

20 **A. The Settlement Agreement**

21 In December, 1986, the Church entered into the Agreement with Armstrong.  
22 The Agreement provided for a mutual release and waiver of all claims arising out of  
23 a cross-complaint which defendant Armstrong had filed in Church of Scientology of  
24 California v. Gerald Armstrong, Los Angeles Superior Court No. C 420153.<sup>1</sup> The

25 \_\_\_\_\_  
26 <sup>1</sup> The signatories to the Agreement were Gerald Armstrong and the Church of  
27 Scientology International, by its President, Heber Jentsch. [Sep.St.Nos. 1, 2] (All  
28 references to evidence are to the Separate Statement of Undisputed Facts,  
(continued...)



1 Agreement contains various provisions designed to guarantee that new actions  
2 were not spawned or encouraged by the conclusion of the old one.<sup>2</sup> In particular,  
3 various paragraphs of the Agreement provided that Armstrong: (1) would not  
4 provide voluntary aid or advice to others litigating against the Church; (2) would  
5 not create or publish, or assist another in creating or publishing, any media  
6 publication or broadcast, concerning information about the Church of Scientology,  
7 L. Ron Hubbard, or any other persons or entities released by the Agreement; (3)  
8 would maintain "strict confidentiality and silence" with respect to his alleged  
9 experiences with the Church or any knowledge he might have concerning the  
10 Church, L. Ron Hubbard, or other Scientology-related entities and individuals; and  
11 (4) would not disclose any documents which related to the Church or other  
12 protected entities and individuals.

13 Armstrong admittedly received \$800,000 as his portion of a total settlement  
14 paid to his attorney, Michael Flynn, in a block settlement concerning all of Mr.  
15 Flynn's clients who were in litigation with any Church of Scientology or related  
16 entity. [Sep.St.No. 14]

17 **B. Armstrong's Admitted Breaches Of The Agreement**

18 That Armstrong repeatedly has breached the above-described paragraphs of  
19 the Agreement is not in dispute. Evidence consisting of Armstrong's own  
20 admissions illuminates at least the following deliberate breaches by Armstrong:

- 21 ○ In July, 1991, Armstrong provided voluntary aid and assistance to  
22

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23 <sup>1</sup>(...continued)

24 support of this motion. References will be made to "Sep.St.No. \_\_\_" for "Separate  
25 Statement of Undisputed Facts, Fact Number \_\_\_." Mr. Armstrong's signature was  
26 witnessed by JoAnn Richardson and Michael Sutter, and the Agreement was signed  
with approval as to form and content by Mr. Armstrong's attorney, Michael Flynn.  
[Sep.St.Nos. 3, 4]

27 <sup>2</sup> See specifically ¶¶ 7(H), 7(G), 10, 7(D), 18(D), 20 of the Agreement. [Exhibit  
28 A to Sep. St.]



1 Joseph Yanny, an attorney for Vicki and Richard Aznaran ("the Aznarans") in the  
2 Aznarans' litigation against the Church, in violation of paragraphs 10 and 7(G) of  
3 the Agreement;<sup>3</sup>

4       ○ In July, 1991, Armstrong provided aid to Yanny in Yanny's own  
5 litigation against the Church and related entities, including giving Yanny  
6 declarations disclosing the confidential terms of the Agreement, in violation of  
7 paragraphs 10, 7(G) and 18(D) of the Agreement;<sup>4</sup>

8       ○ From August, 1991 until at least July, 1992, Armstrong provided aid to  
9 the Aznarans' current attorney, Ford Greene, in the Aznarans' litigation against the  
10 Church, including providing the Aznarans with declarations about his own  
11 experiences with Scientology, the terms of the Agreement, and documents  
12 concerning Scientology, in violation of paragraphs 10, 7(G), 7(D) and 18(D) of the  
13  
14

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15  
16 <sup>3</sup> The Aznarans are former Church members currently engaged in litigation against  
17 CSI and others. In June, 1991, the Aznarans discharged their attorney, Ford Greene,  
18 and retained Joseph A. Yanny to represent them. [Am.Compl., ¶¶ 18 -19] While  
19 counsel for the Aznarans, Yanny hired Armstrong, in Yanny's own words "as a  
20 paralegal to help [Yanny] on the Aznaran case." In a holographic declaration supplied  
21 to Yanny, Armstrong admitted that Yanny called him on July 10, 1991, and asked for  
22 Armstrong's help in Yanny's representation of the Aznarans; that Armstrong agreed  
23 to help Yanny with the Aznarans' case; that he would travel to Los Angeles for that  
24 express purpose on July 12, 1991; and that Armstrong asked Yanny to pay him \$500  
25 for his services. Armstrong admits that he did travel to Los Angeles, did stay with  
26 Yanny on July 15 and 16, and wrote a declaration for Yanny and the Aznarans. Yanny  
27 has also admitted that he hired Armstrong as a paralegal against the Church and other  
28 related entities. [Sep.St. Nos. 30, 37]

24 <sup>4</sup> After Yanny entered his appearance for the Aznarans and indicated to Church  
25 counsel that he represented Armstrong as well, the Church and two related entities  
26 sued Yanny in this Court. In that proceeding, Yanny filed two declarations prepared  
27 and executed by Armstrong in which Armstrong asserts knowledge of settlements,  
28 including his own, which he purportedly gleaned by working as a paralegal for yet  
another law firm. The declarations were offered by Yanny as part of Yanny's defense.  
Moreover, Armstrong attached a copy of the Agreement as an exhibit to one of the  
declarations. [Sep.St.Nos. 31 - 32]



1 Agreement;<sup>5</sup>

2       ○ In March, 1992, Armstrong provided media interviews to reporters from,  
3 inter alia, Cable News Network, and The American Lawyer, in which he discussed  
4 his experiences with Scientology and the terms of the Agreement, in violation of  
5 paragraphs 7(D) and 18(D) of the Agreement;<sup>6</sup>

6       ○ In March, 1992, Armstrong provided aid to lawyers for litigants opposing  
7 a Church-affiliated entity in the case of Hunziker et al. v. Applied Materials et al.,  
8 Santa Clara Superior Court, Case No. 692629, discussing with them for hours his  
9 experiences in Scientology, providing them with documents, and voluntarily  
10 agreeing to appear for them as an "expert witness" on the subject of Scientology,  
11  
12

---

13 <sup>5</sup> After Yanny's substitution into the Aznarans' case was summarily vacated,  
14 Ford Greene was reinstated as the Aznarans' counsel of record. In a letter to the  
15 Church's counsel dated August 21, 1991, Armstrong admitted that he had been  
16 working at Greene's office with Greene on the Aznarans' case, helping him to prepare  
17 responses to summary judgment motions filed in that case. [Sep.St.No. 16] Both  
18 Armstrong and Greene freely admitted in sworn declarations that Greene employed  
19 Armstrong as a paralegal in the Aznaran case, even after this case was filed.  
20 [Sep.St.Nos. 17-18] Armstrong himself described his activities as follows:

21               My help to Ford Greene in all of the papers recently filed has been  
22 in proofreading, copying, collating, hole-punching, stapling, stamping,  
23 packaging, labeling, air freighting, and mailing. Mr. Greene and I have  
24 had several conversations during this period, some of which certainly  
25 concerned the litigation.

26 [Id.]

27       As Greene's paralegal, Armstrong has, since July, 1992, further admitted to  
28 "broadly discussing" with the Aznarans matters concerning their case against the  
Church and assisting in the relay of communications between the Aznarans and  
Greene. [Id.] See also, the Church's concurrently filed Memorandum of Points and  
Authorities in Support of Motion for Summary Adjudication of the Fourth, Fifth, Sixth,  
Seventh, Ninth, and Eleventh Causes of Action ("Liquidated Damages Motion"), pp.  
7 - 8, and the Separate Statement of Undisputed Facts thereto, Nos. 14 - 15,  
incorporated herein by reference.

<sup>6</sup> See the Liquidated Damages Motion, pp. 8 - 9, and the Separate Statement of  
Undisputed Facts thereto, Nos. 13 - 17.



1 in violation of paragraphs 7(D), 7(G) and 10 of the Agreement;<sup>7</sup>

2       ○ In May, 1992, Armstrong provided aid to lawyers for David Mayo and  
3 Church of the New Civilization, litigants opposing the Church in the consolidated  
4 case of Religious Technology Center et al. v. Scott et al., and Religious Technology  
5 Center, et al. v. Wollersheim, et al., United States District Court for the Central  
6 District of California, Case Nos. CV 85-711 JMI(Bx) and CV 85-7197 JMI(Bx)  
7 discussing with them his experiences in Scientology, and providing them with a  
8 declaration, in violation of paragraphs 7(D), 7(G) and 10 of the Agreement;<sup>8</sup>

9       ○ In 1992, Armstrong provided aid to Ed Roberts, interviewing him at least  
10 seven times concerning Roberts' claims against the Church, and writing to Church  
11 lawyers seeking a "settlement" on Roberts' behalf, in violation of paragraphs 7(G)  
12 and 10 of the Agreement;<sup>9</sup>

13       ○ In November, 1992, Armstrong engaged in a lengthy, videotaped  
14 interview concerning his purported Church experiences with Church litigation  
15 adversary Jerry Whitfield and others, in violation of paragraphs 7(D), 7(G), 10 and  
16 18(D) of the Agreement.<sup>10</sup>

17  
18 \_\_\_\_\_  
19 <sup>7</sup> See the Liquidated Damages Motion, pp. 9 - 10, and the Separate Statement  
of Undisputed Facts thereto, Nos. 18 - 22.

20 <sup>8</sup> See the Liquidated Damages Motion, pg. 10, and the Separate Statement of  
21 Undisputed Facts thereto, Nos. 24 - 25.

22 <sup>9</sup> Armstrong has admitted both to aiding Mr. Roberts by acting as Greene's  
23 paralegal, and on his own. In a letter of December 22, 1992, Armstrong asserted that  
24 he "is the only person in the world willing to help Mr. Roberts against your  
25 organization." In that letter, Armstrong includes the payment of an unspecified  
amount to Mr. Roberts as a "condition" to the ending of Armstrong's campaign of  
harassment against the Church. [Sep.St.No. 35]

26 <sup>10</sup> Whitfield, a self-proclaimed "specialist" in the "deprogramming" of Church of  
27 Scientology parishioners, is currently a defendant in a false imprisonment and false  
28 arrest suit brought by Church staff member Angel Casillas, Angel Casillas v. Jerry  
Whitfield, Hana Whitfield and Does 1-25, Los Angeles Municipal Court Case No.  
91K49349.



1 **C. Armstrong's Intention To Commit Future Breaches**

2 Armstrong's intention to continue to breach the Agreement, regardless of  
3 the consequences, is also not in dispute. On May 28, 1992, this Court issued a  
4 preliminary injunction in this case, which is in effect, and which provided in  
5 relevant part:

6 Defendant Gerald Armstrong, his agents, and persons acting in  
7 concert or conspiracy with him (excluding attorneys at law who are  
8 not said defendant's agents or retained by him) are restrained and  
enjoined during the pendency of this suit pending further order of this  
court from doing directly or indirectly any of the following:

9 Voluntarily assisting any person (not a governmental organ or  
10 entity) intending to make, intending to press, intending to arbitrate, or  
intending to litigate a claim against the persons referred to in sec. 1 of  
11 the "Mutual Release of All Claims and Settlement Agreement" of  
December 1986 regarding such claim or regarding pressing, arbitrating  
12 or litigating it.

13 Voluntarily assisting any person (not a governmental organ or  
entity) arbitrating or litigating a claim against the persons referred to in  
14 sec. 1 of the "Mutual Release of All Claims and Settlement  
Agreement" of December, 1986.

15 [Sep.St.No. 29]<sup>11</sup> These particular prohibitions against Armstrong voluntarily  
16 assisting litigants and other claimants were based on paragraph 7G of the  
17 Agreement, which this Court found the Church held a reasonable probability of  
18 enforcing after trial.

19 Less than a month after the May 28 Order was issued, Armstrong asserted  
20 under oath in deposition that he would not honor either its terms or those of the  
21 Agreement:

22 I have absolutely no intention of honoring that settlement  
23 agreement. I cannot. I cannot logically. I cannot ethically. I cannot  
24 morally. I cannot psychically. I cannot philosophically. I cannot  
spiritually. I cannot in any way. And it is firmly my intention to not

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25 <sup>11</sup> At the time of the hearing on the preliminary injunction, the Church was not  
26 aware of many of Armstrong's breaches, which have since been revealed.  
27 Armstrong's interviews with the media and creation of the videotape, for example,  
28 were not presented to the Court in the Church's request for preliminary injunction.  
In seeking permanent injunction, the Church requests an expansion of the preliminary  
injunction that would prohibit all of the violations of the Agreement proven herein.



1 honor it.

2 Q. No matter what a court says?

3 A. No court could order it. They're going to have to kill me.

4 [Sep.St.No. 20]

5 Armstrong's intention to ignore both the Agreement and the May 28 Order  
6 was reiterated in a letter sent by Armstrong to plaintiff's counsel, dated December  
7 22, 1992. In that letter, which is copied to his own attorneys but not sent by  
8 them,<sup>12</sup> Armstrong threatens that if he is not paid \$500,000 and this lawsuit  
9 dismissed, he intends to travel to South Africa to testify against a Church of  
10 Scientology, give interviews to the media, and assist anyone and everyone  
11 opposing Churches that he can locate. [Sep.St.No. 28] Expressing the viewpoint  
12 that the May 28 Order places no restrictions whatsoever on his conduct,  
13 Armstrong states:

14 I consider myself free to do anything anyone can, except testify  
15 absent a subpoena. Much of what I am permitted to do I am going to  
do. . . .

16 I will continue to associate with and befriend all those people I  
17 consider you attack unjustly and senselessly. I will make my  
18 knowledge and support available to the Cult Awareness Network, a  
19 group of people of good will you vilify, in all the litigation you have  
20 fomented against them<sup>13</sup>. . . . I will even make my knowledge and  
support available to entities like Time and people like Rich Behar in

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21 <sup>12</sup> In what can only be described as deliberate harassment, Armstrong also sent  
22 copies of the letter to 35 individuals and groups, including anti-Church litigants, such  
23 as Vicki and Richard Aznaran, Larry Wollersheim and Joseph Yanny, and lawyers who  
24 represent clients in actions brought against one of more churches, including Toby  
Plevin, John Elstead and Daniel Leipold.

25 <sup>13</sup> The Cult Awareness Network is an anti-religious group that advocates the  
26 kidnapping and forcible "deprogramming" of individuals belonging to religions which  
27 they have identified as "cults." While the Church is not presently suing the Cult  
28 Awareness Network in any litigation, the president of the Cult Awareness Network,  
Cynthia Kissner, has initiated an action against the Church and its president, Heber  
Jentzsch. [Sep.St.No. 21]



1 their defenses from your attacks.<sup>14</sup>

2 [Sep.St.No. 26] In that same letter, Armstrong makes plain the personal contempt  
3 which he has for a court which would rule against him:

4 There is also, as mentioned above, the fact that in order to  
5 defend myself from your attacks and to fund the defense of the  
6 litigation you have fomented I must speak and must publish. I'm sure  
7 you understand that I remain completely confident that no court, other  
8 than the odd one your mercenaries are able to compromise with  
9 bucks, babes or bull, will order me not to defend myself.

8 [Sep.St.No. 27]

9 Moreover, while making the videotape in November, 1992, Armstrong was  
10 fully aware that his actions were in violation of the Agreement, but persisted  
11 nonetheless, saying:

12 I cannot, except pursuant to a subpoena, assist someone intending to  
13 file a claim or pressing a claim against the organization. Now then we  
14 are appealing even that narrow ruling, because that's unenforceable  
15 because if you construe that my ... that this video could possibly  
16 indirectly help someone in the future, I can't do this. And not only  
17 that but if you consider that my existence indirectly or directly helps  
18 someone, then I'll oblige to take my own life. In other words I must  
19 stop breathing.

16 [Sep.St.No. 24]

### 17 III. ARGUMENT

#### 18 A. The Necessity Of A Permanent Injunction May Be 19 Determined By Summary Adjudication

20 A motion for summary adjudication "shall be granted if all the papers  
21 submitted show that there is no triable issue as to any material fact and that the  
22 moving party is entitled to a judgment as a matter of law." Code Civ. Proc. §  
23 437c(c). Moreover, under a provision recently added to the Code of Civil  
24 Procedure:

25 (n) For purposes of motions for summary judgment and  
26 summary adjudication:

27 <sup>14</sup> Behar is the author of a Time cover story concerning the Church which ran in  
28 May, 1991. The Church is presently engaged in a lawsuit against Time and Behar for  
defamation. [Sep.St.No. 22]



1 (1) a plaintiff or cross-complainant has met his or her burden of  
2 showing that there is no defense to a cause of action if that party has  
3 proved each element of the cause of action entitling the party to  
4 judgment on that cause of action. Once the plaintiff or cross-  
complainant has met that burden, the burden shifts to the defendant  
or cross-defendant to show that a triable issue of one or more material  
facts exists as to that cause of action.

5 C.C.P. § 437c(n)(1). As demonstrated below, and in the Separate Statement of  
6 Undisputed Facts, the Church has met its burden by proving, from Armstrong's  
7 own admissions, each element of the cause for injunctive relief.

8 Once the moving party has shown the nonexistence of a factual dispute as  
9 to a material fact, the party opposing the motion can avoid summary adjudication  
10 only by presenting evidence tending to demonstrate that there exists a triable issue  
11 of material fact. See, e.g., University of Southern California v. Superior Court  
12 (1990) 222 Cal.App.3d 1028, 1036, 272 Cal.Rptr. 264.

13 Indeed, courts have found summary adjudication to be particularly  
14 appropriate for resolving a cause of action for breach of a written contract.  
15 "Where there is no conflict as to the terms of a contract, and where its provisions  
16 are not uncertain or ambiguous, its 'meaning and effect \* \* \* and the relation of  
17 the parties to it thereby created \* \* \* become a question of law to be decided by  
18 the court.'" Nizuk v. Georges (1960) 180 Cal.App.2d 699, 705, 4 Cal.Rptr. 565,  
19 570 (citations omitted) (liability under written employment contract properly  
20 decided on motion for summary judgment). Permanent injunctive relief may be had  
21 without trial where, as here, the facts which support issuance of the permanent  
22 injunction are undisputed. Camp v. Mendocino County Board of Supervisors  
23 (1981) 123 Cal.App.3d 334, 357-358, 176 Cal.Rptr. 620, 635.

24 **B. An Injunction May Be Granted To Prevent The Breach Of A Contract The**  
25 **Performance Of Which Would Be Specifically Enforced**

26 C.C.P. § 526 empowers the court to grant an injunction to prevent a breach  
27 of a contract if the contract is one which may be specifically enforced. C.C.P. §  
28 526; see also, Steinmeyer v. Warner Consolidated Corp. (1974) 42 Cal.App.3d



1 515, 518, 116 Cal.Rptr. 57, 60 ("An injunction cannot be granted to prevent  
2 breach of a contract which is not specifically enforceable."); Southern Christian  
3 Leadership Conference of Greater Los Angeles v. Al Malaikah Auditorium Co.  
4 (1991) 230 Cal.App.3d 207, 281 Cal.Rptr. 216. The Agreement at issue is one  
5 which may be specifically enforced by this Court as the contract is sufficiently  
6 definite and certain in its terms, it is just and reasonable, the plaintiff has  
7 performed its side of the bargain, Armstrong has breached the contract, the  
8 Agreement was supported by adequate consideration, and the Church's remedy at  
9 law is inadequate. Taramind Lithography Workshop, Inc. v. Sanders (1983) 143  
10 Cal.App.3d. 571, 575, 193 Cal.Rptr. 409, 410.

11 A permanent injunction may be granted to prevent breach of contract  
12 "[w]here pecuniary compensation would not afford adequate relief" or "[w]here the  
13 restraint is necessary to prevent a multiplicity of judicial proceedings." Civil Code  
14 § 3422(1), (3). As demonstrated below, both of these circumstances are present  
15 in this case.

16 Civil Code § 3389 expressly provides that a liquidated damages provision  
17 does not preclude a contract from being specifically enforceable. Accordingly, the  
18 Court is empowered to grant a permanent injunction to enjoin Armstrong from  
19 further breach, notwithstanding that some, but not all, of the clauses in the  
20 settlement agreement provide for liquidated damages.

21 **C. Prevention Of Irreparable Injury And Avoidance Of Multiplicity Of Actions**  
22 **Requires The Court To Issue A Permanent Injunction**

23 This Court has already issued a preliminary injunction enforcing the  
24 settlement agreement. Moreover, Scientology's former Mother Church, the Church  
25 of Scientology of California ("CSC"), has already obtained injunctions and specific  
26 performance of similar settlement agreements. Thus, while C.C.P. § 526(5) deters  
27 the granting of injunctions to prevent the breach of a contract "the performance of  
28 which would not be specifically enforced," this Agreement is patently specifically



1 enforceable. In Wakefield v. Church of Scientology of California (11th Cir. 1991)  
2 938 F.2d 1226 (Ex. R), CSC obtained specific performance of an agreement  
3 substantially similar to this Agreement. CSC moved to enforce the provisions of  
4 the settlement agreement, and the district court ordered hearings before the  
5 magistrate judge, who concluded that Wakefield had violated the agreement. The  
6 district court adopted the magistrate judge's findings and issued a preliminary and  
7 permanent injunction prohibiting Wakefield from violating the agreement. Id.  
8 When Wakefield violated the injunction, again making media appearances, CSC  
9 sought an order to show cause why Wakefield should not be held in contempt. At  
10 an in camera proceeding, the magistrate judge found that Wakefield had willfully  
11 violated the injunction, and recommended that the case be referred to the United  
12 States Attorney's office for criminal contempt proceedings. Id. at 4628.

13 Although the district court's issuance of the injunction in Wakefield was not  
14 at issue in the Eleventh Circuit proceedings, the Eleventh Circuit described in its  
15 opinion, "Wakefield's constant disregard and misuse of the judicial process,"  
16 suggesting approval of the district court's actions. Id. at 4630.

17 Similarly, in McLean v. Church of Scientology of California (11th Cir. 1991)  
18 (Slip Op., Ex. S) plaintiff McLean also entered into a settlement agreement  
19 containing confidentiality provisions preventing her from discussing the litigation  
20 with anyone outside her immediate family. Id. at 2. By her own testimony,  
21 McLean admitted to reacquiring certain documents and using them to "counsel"  
22 Church members. She further admitted to discussing certain aspects of the suit  
23 with people outside her immediate family. Id. at 5. As a result, the appellate court  
24 affirmed the district court order permanently enjoining McLean from disclosing any  
25 information about her lawsuit and the resulting settlement agreement. Id. at 6.

26 Just as the district courts in Wakefield and McLean found it necessary to  
27 issue permanent injunctions to enforce the agreement of the parties, so should this  
28 Court issue a permanent injunction to enjoin Armstrong from further breaches



1 which he candidly promises.

2 1. The Church Will Be Irreparably Harmed  
3 Absent The Issuance Of An Injunction

4 This Court has already found in this case that the Church's legal remedies  
5 against Armstrong are inadequate. Order of May 28, 1992, ¶ 1. Not only is  
6 Armstrong assisting adversaries of the Church, he is doing so to foster and  
7 perpetuate relentless litigation against the Church to serve his own ends.  
8 Armstrong's conduct is continuous, oppressive and malicious and has been  
9 undertaken for the express purpose of injuring the Church. Even the Court's  
10 preliminary injunction order has been viewed so myopically by Armstrong as  
11 permitting him to violate the provisions of the Agreement not specifically  
12 enumerated in the injunction, instead of prohibiting him from future breaches. Only  
13 a detailed permanent injunction fully enforcing the contractual provisions has any  
14 hope of stopping Armstrong from waging his malicious, relentless war.

15 Although some of Armstrong's breaches are subject to a liquidated damages  
16 clause, others, including the continual violations which he is engaging in through  
17 his employment by Ford Greene, are not. It is these continual violations, which no  
18 monetary award can remedy, which must be permanently enjoined.

19 2. Armstrong Must Be Permanently Enjoined To Prevent A Multiplicity Of  
20 Actions

21 Armstrong has dramatically demonstrated, during the pendency of this  
22 action, just why a permanent injunction must issue if the Church is to have  
23 meaningful relief. Most of the breaches of the Agreement described in the  
24 Statement of Facts occurred after the initial complaint in this action was filed.  
25 While some of them were added to the Amended Complaint, the most recent  
26 events are not the subject of this action (except as to the Church's contempt  
27 proceedings against Armstrong), yet they are among the most egregious.  
28 Armstrong's videotape, made on November 6, 1992, is a 1 1/2-hour rendition by



1 Armstrong of his purported experiences with the Church, his interpretation of the  
2 Agreement, and a hate-filled diatribe against his former religion. It was provided to  
3 deprogrammer Jerry Whitfield for use in the forcible "persuasion" of Scientologists  
4 to abandon their faith; as such a tool, it easily could help to spawn additional  
5 litigation and strife. Armstrong's letter of December 22, 1992, threatens still more  
6 actions in violation of the Agreement, including the provision of aid to still more  
7 anti-Church litigants. If a permanent injunction does not issue and these threats  
8 are carried out by Armstrong, additional, repetitive litigation will be necessary for  
9 the Church to secure its rights pursuant to the Agreement.

10 **3. A Balancing Of The Equities Requires The Court**  
11 **To Issue A Permanent Injunction**

12 In determining whether to grant injunctive relief, the Court must balance the  
13 equities before it and exercise its discretion in favor of the party most likely to be  
14 injured. Robbins v. Superior Court (1985) 38 Cal.3d 199, 205, 211 Cal.Rptr. 398,  
15 402. In balancing the equities, the Court considers two interrelated factors: (1)  
16 the likelihood that plaintiff will prevail on the merits; and (2) the harm that plaintiff  
17 is likely to suffer if the injunction is denied as compared to the harm that  
18 defendants are likely to suffer if the injunction is granted. Id. at 206.

19 Armstrong has no equities whatsoever in this action. No one has any right  
20 to continue to violate a settlement agreement. Armstrong already has received  
21 the benefits of the Agreement, in the form of substantial monetary compensation.  
22 Armstrong's only "injury" if he is enjoined is that he will not be able to violate the  
23 Agreement in the future.<sup>15</sup> On the other hand, the harm that will be suffered by

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24 <sup>15</sup> Armstrong argued unsuccessfully in response to the Church's request for a  
25 preliminary injunction that issuance of the injunction would infringe on his First  
26 Amendment rights. However, it is well-established that individuals may enter into  
27 valid contracts which restrict First Amendment rights or other constitutional rights.  
28 ITT Telecomm Products Corporation v. Dooley (1989) 214 Cal.App.3d 307, 319, 262  
Cal.Rptr. 773, 780 (free speech rights held waived by contractual nondisclosure

(continued...)



1 the Church absent injunctive relief is the irreparable harm of being victimized by  
2 Armstrong's violations, while others with interests adverse to the Church benefit in  
3 legal proceedings from an unfettered flow of breached obligations, wrongful  
4 disclosures and fiduciary infidelity. Furthermore, California courts have long  
5 recognized the public interest in encouraging settlements (which necessitates that  
6 such settlement agreements be enforceable on the parties concerned). Phelps v.  
7 Kozakar (1983) 146 Cal.App.3d 1078, 1081, 194 Cal.Rptr. 872, 874. Thus, the  
8 balancing of the equities unquestionably favors the Church.

9 IV.

10 CONCLUSION

11 As demonstrated herein, the Church has suffered substantial and irreparable

12  
13 \_\_\_\_\_  
14 <sup>15</sup>(...continued)

14 agreement); In re Steinberg (1983) 148 Cal.App.3d 14, 20, 195 Cal.Rptr. 613, 617  
15 (movie maker's First Amendment right to disseminate his movie was limited by  
16 agreement to submit movie for editing prior to release); D.H. Overmyer Co. v. Frick  
17 Co. (1972) 405 U.S. 174, 185, 187, 92 S.Ct. 775, 782, 783, 31 L.Ed.2d 124  
18 (debtor may waive rights to prejudgment notice).

17 Negative or restrictive covenants in contracts have also been held valid in a  
18 number of instances such as non-disclosure of trade secrets and enforcement of non-  
19 compete agreements which involve the voluntary relinquishment of First Amendment  
20 rights. In all these instances, the injunctive power of the Court has been used to  
21 enforce the terms of the agreements. Merrill Lynch, Pierce, Fenner & Smith, Inc. v.  
22 Stidham (5th Cir. 1981) 658 F.2d 1098 (broker permanently enjoined from violating  
23 restrictive covenant in contract requiring that records remain confidential); Zoecon  
24 Industries v. American Stockman Tag Company (5th Cir. 1983) 713 F.2d 1174  
25 (permanent injunction issued against use of trade secrets on breach of confidential  
26 relationship with former employer); NCH Corporation v. Share Corp. (5th Cir. 1985)  
27 757 F.2d 1540 (court had power to enforce contract by granting injunction restraining  
28 employees from competing with former employer).

24 Indeed, in issuing the preliminary injunction herein, Judge Sohigian correctly  
25 noted that:

25 The law appropriately favors settlement agreements. Obviously, one  
26 limitation on freedom of contract is "public policy." . . . Litigants have  
27 a substantial range of contractual freedom, even to the extent of  
28 agreeing not to assert or exercise rights which they might otherwise  
have.

28 Order of May 28, 1992, ¶ 8.



1 harm due to Armstrong's deliberate and systematic violations of the Agreement,  
2 and will continue to do so absent issuance of a permanent injunction. The facts of  
3 the making of the Agreement, performance by the Church, Armstrong's repeated  
4 breaches, and Armstrong's dedication to continuing to breach the Agreement are  
5 undisputed. A preliminary injunction has already issued, which has restrained  
6 Armstrong from violating some of the provisions of the Agreement, but which has  
7 not prevented him from additional breaches. Issuance of a permanent injunction is  
8 necessary for plaintiff to obtain meaningful relief.

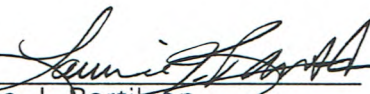
9 For all of the foregoing reasons, plaintiff requests that the Court enter a  
10 permanent injunction enforcing the terms of the Agreement, according to the  
11 Proposed Order filed herewith.

12 Dated: March 2, 1993

Respectfully submitted,

13 Andrew H. Wilson  
14 WILSON, RYAN AND CAMPILONGO

15 BOWLES & MOXON

16 BY:   
17 Laurie J. Bartilson

18 Attorneys for Plaintiff  
19 CHURCH OF SCIENTOLOGY  
20 INTERNATIONAL  
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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen (18) years and not a party to the within action. My business address is 6255 Sunset Blvd., Suite 2000, Hollywood, CA 90028.

On March 2, 1993 I served the foregoing document described as PLAINTIFF'S NOTICE OF MOTION AND MOTION FOR SUMMARY ADJUDICATION OF THE TWELFTH CAUSE OF ACTION OF PLAINTIFF'S COMPLAINT; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF on interested parties in this action as follows:

by placing the true copies thereof in sealed envelopes as stated on the attached mailing list;

by placing  the original  a true copy thereof in a sealed envelope addressed as follows:

Ford Greene  
Hub Law Offices  
711 Sir Francis Drake Boulevard  
San Anselmo, CA 94960-1949

BY MAIL -- I deposited such envelope in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid.

Executed on March 2, 1993 at Los Angeles, California.

BY PERSONAL SERVICE -- I delivered such envelopes by hand to the offices of the addressee.

Executed on \_\_\_\_\_, at Los Angeles, California.

(State) I declare under penalty of the laws of the State of California that the above is true and correct.

(Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

\_\_\_\_\_  
Type or Print Name

\_\_\_\_\_  
Signature



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[ ] by placing the true copies thereof in sealed envelopes as stated on the attached mailing list;

[X] by placing [ ] the original [X] a true copy thereof in a sealed envelope addressed as follows:

Paul Morantz  
P.O. Box 511  
Pacific Palisades, CA 90272

[ ] BY MAIL -- I deposited such envelope in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid.

Executed on \_\_\_\_\_ at Los Angeles, California.

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\_\_\_\_\_  
Type or Print Name

\_\_\_\_\_  
Signature